

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

SHAWN PATRICK TAYLOR and	)	
SHEREE LOUISE TAYLOR,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No.: 3:08-CV-312
	)	(VARLAN/GUYTON)
STATE FARM FIRE & CASUALTY	)	
COMPANY and STATE FARM VP	)	
MANAGEMENT CORP.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This civil action is before the Court for consideration of defendants' Motion to Dismiss [Doc. 1-1]. Plaintiffs have not responded to defendants' motion to dismiss and the time for doing so has now passed.

**I. Relevant Facts**

Plaintiffs Shawn Patrick Taylor and Sheree Louise Taylor were parties to a policy of fire insurance with State Farm Fire & Casualty Company, which insured a home and its contents located at 139 Community Drive, Madisonville, Monroe County, Tennessee 37354. Plaintiffs allege that, while the home was covered by the insurance policy, a fire occurred at the home resulting in a total loss of the building and its contents as a result of fire and water damages. Plaintiffs filed this suit against State Farm Fire & Casualty Company and State Farm VP Management Corp., the former of which plaintiffs believe to be a subsidiary of the latter.

Plaintiffs originally filed a complaint against defendants in the Chancery Court for Monroe County, Tennessee. [See Doc. 1-1.] Defendants timely removed the case to this Court pursuant to 28 U.S.C. §§ 1441 and 1446 and the Court denied plaintiffs' motion to remand.

## **II. Analysis**

Defendants move to dismiss this case pursuant to Tennessee Rule of Civil Procedure 12 on the basis of insufficient process, insufficient service of process, failure to state a claim upon which relief can be granted, and failure to join a necessary party. The Court agrees that neither State Farm Fire & Casualty Company nor State Farm VP Management Corp. were properly served and, thus, this case will be dismissed. Because the Court determines that service was insufficient, it will not address defendants' other arguments for dismissal.

Tennessee Rule of Civil Procedure 4.04(4) states,

Service shall be made as follows: . . . Upon a domestic corporation, or a foreign corporation doing business in this state, by delivering a copy of the summons and of the complaint to an officer or managing agent thereof, or to the chief agent in the county wherein the action is brought, or by delivering the copies to any other agent authorized by appointment or by law to receive service on behalf of the corporation.

Only one summons was issued in this case and it named both State Farm Fire & Casualty Company and State Farm VP Management Corp., thus, it is unclear which corporation plaintiffs sought to serve through the summons. [See Doc. 1-1.] It states, "Serve: Corporation Service Company, 2908 Poston Avenue, Nashville, TN 37203." The summons was returned to the Chancery Court of Monroe County indicating that Mary Marchetti accepted service for State Farm Fire and Casualty Company. [See *id.*] The agent for service

of process for State Farm Fire and Casualty Company is the Commissioner of Insurance for the State of Tennessee. Thus, Mary Marchetti is not authorized accept service for State Farm Fire and Casualty Company and service is not proper to that defendant. Additionally, because the returned summons only states that Mary Marchetti accepted service for State Farm Fire and Casualty Company, State Farm VP Management Corp. was not properly served. Though the record indicates that a summons stating “Serve: State Farm Fire & Casualty Company through the Commissioner of Ins.” was issued, the copy of the summons on file does not indicate that it was executed. Because there was no proper service on either defendant, the case will be dismissed.

### **III. Conclusion**

The Court finds that defendants’ Motion to Dismiss [Doc. 1-1] is well-taken and it is hereby **GRANTED** and this case is **DISMISSED**.

IT IS SO ORDERED.

s/ Thomas A. Varlan  
UNITED STATES DISTRICT JUDGE